

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

MICHAEL SPEED

\*

\*

\*

\*

\*

\*

\*\*\*\*\*

Criminal No. JFM-10-0700

Civil No. – JFM-14-583

**MEMORANDUM**

This motion filed under 28 U.S.C. §2255 has been remanded by the United States Court of Appeals for the Fourth Circuit.

I will assume (if for no other reason than that the plea letter contained a paragraph waiving defendant's right to appeal) that defendant was not advised by his counsel of the right to appeal. This assumption may or may not be correct. However, making the assumption will save the government the cost of returning defendant to Baltimore and will save significant time and expense of the parties.

After the remand, supplemental briefing has been filed in which defendant raises a new issue that his counsel was ineffective in not investigating and arguing at sentencing that he suffered from depression, anxiety, bi-polar disorder and dependency on associated regimen of medications as a mitigating factor to seek a downward departure because of history of mental health problems. The facts that defendant has proffered would not have justified a downward departure under the Guidelines. *See United States v. Goossens*, 84 F.3d 697, 701 (4th Cir. 1996). Likewise, the facts as proffered by defendant would not have justified this court varying from the Guidelines under 18 U.S.C. §3553. This is especially true in light of the fact that defendant was clearly alert at all proceedings conducted before this court.

A separate denying petitioner's motion to vacate is being entered herewith.

Date: August 12, 2015

/s/  
J. Frederick Motz  
United States District Judge